

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Magistrate Case No. **08MJ8704**
Plaintiff,)
v.)
Adalberto DOMINGUEZ-Cordova,) **FINDINGS OF FACT AND**
Defendant.) **ORDER OF DETENTION**

In accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.), a detention hearing was held on August 8, 2008, to determine whether defendant Adalberto DOMINGUEZ-Cordova, should be held in custody pending trial on the grounds that he is a flight risk. Assistant U. S. Attorney Karla K. Davis appeared on behalf of the United States. Diane Regan of Federal Defenders of San Diego, Inc. appeared on behalf of the Defendant.

Based on the evidence proffered by the United States and the Defendant, the Pretrial Services Officer and the criminal complaint issued against the Defendant on August 8, 2008, by this Court, the Court concludes that the following facts establish by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the Defendant required.

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FINDINGS OF FACT3
A. Nature and Circumstances of the Offense Charged (18 U.S.C. §3142(G)(1)):

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1. The Defendant is charged in Criminal Complaint No. 08MJ8704 with the importation
5 of 20.70 kilograms (45.54 pounds) of cocaine in violation of 21 U.S.C. §§ 952 and 960. Therefore,
6 probable cause exists to believe the Defendant committed the charged offense.

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2. The charged offense is an offense for which a maximum term of imprisonment of
8 10 years or more is prescribed in the Uniform Controlled Substances Act (21 U.S.C. § 801 et seq.). Thus,
9 there arises a presumption that no condition or combination of conditions will reasonably assure the
10 appearance of the Defendant as required. See 18 U.S.C. § 3142(e).

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3. The offense carries with it a minimum mandatory 10-year sentence and a maximum
12 life sentence. See 21 U.S.C. § 960(b)(1)(B). According to the United States Sentencing Guidelines,
13 the Base Offense level is 34. See USSG § 2D1.1(3). Assuming the Defendant's criminal history score
14 places him in Criminal History Category I, See USSG § 4A1.1, the sentencing range for the Defendant
15 is 151-188 months in prison.

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B. Weight of the Evidence Against the Defendant (18 U.S.C. § 3142(g)(2)):

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1. On August 7, 2008, Defendant was the driver, sole occupant, and registered owner of
18 a 2002 Toyota 4-Runner, as he entered the United States through the Calexico, California, West Port of
19 Entry. Defendant and the vehicle were referred to the secondary inspection lot for further inspection.
20 During secondary inspection, a Narcotic Detector Dog alerted to the vehicle. A subsequent inspection
21 of the vehicle resulted in the discovery of 20.70 kilograms (45.54 pounds) of cocaine concealed within
22 a non-factory compartment in the rear floor of the vehicle. Defendant stated he was going to be paid
23 \$3,000.00 to smuggle the cocaine into the U.S. Defendant stated he knew it was cocaine because the
24 organization only smuggles cocaine and he was present when it was loaded into the vehicle.

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C. History and Characteristics of the Defendant (18 U.S.C. § 3142(G)(3)):

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1. Defendant is a citizen of Mexico.

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2. Defendant resides in Mexicali, Baja California, Mexico.

1 3. Defendant's wife, children, and parents reside in Hermosillo, Baja California,
2 Mexico.

3 4. Defendant is employed as a chef for Hotel Lucerna in Mexicali.

4 5. Defendant has no legal right to remain or work in the United States, as she only
5 possesses a Border Crossing Card.

6 D. Nature and Seriousness of Danger Posed by Release (18 U.S.C. § 3142(g)(4)):

7 1. The government proffered no evidence to suggest that release of the Defendant
8 would pose a danger to any person or the community. Defendant does not have any criminal history.

9 II

10 REASONS FOR DETENTION

11 A. There is probable cause to believe that the Defendant committed the offense charged in
12 Criminal Complaint Number 08MJ8704, to wit: the importation of 20.70 kilograms (45.54 pounds) of
13 cocaine in violation of 21 U.S.C. §§ 952 and 960.

14 B. The Defendant faces a substantial period of time in custody if convicted of the offense
15 charged in the Complaint. He therefore has a strong motive to flee.

16 C. The Defendant has not rebutted the presumption, based upon the Court's findings, that
17 there is probable cause to believe that the Defendant committed an offense for which a maximum term
18 of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. § 801
19 et seq.), and that no condition or combination of conditions will reasonably assure the appearance of the
20 Defendant at future court proceedings.

21 III

22 ORDER

23 IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.

24 IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney
25 General or his designated representative for confinement in a corrections facility separate, to the extent
26 practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The
27 Defendant shall be afforded reasonable opportunity for private consultation with counsel.

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1 While in custody, upon order of a court of the United States or upon the request of an attorney
2 for the United States, the person in charge of the correctional facility shall deliver the Defendant to the
3 United States Marshal for the purpose of an appearance in connection with a court proceeding or any
4 other appearance stipulated to by defense and government counsel.

5 THIS ORDER IS ENTERED WITHOUT PREJUDICE.

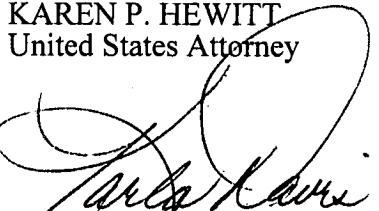
6 IT IS SO ORDERED.

7 DATED: 8-13-08

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10 PETER C. LEWIS
11 UNITED STATES MAGISTRATE JUDGE

12 Prepared by:

13 KAREN P. HEWITT
14 United States Attorney

15 
16 KARLA K. DAVIS

17 Assistant U. S. Attorney

18 cc: Diane Regan
19 Federal Defenders of San Diego, Inc.

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